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LIMDIS, INFORM CONSULS AS APPROPRIATE

E.O. 11652: GDS

TAGS:RH, PDEV, UK

SUBJECT: RHODESIAN SETTLEMENT PROPOSALS - ANNEX B

ANNEX B

TRANSITIONAL CONSTITUTION AND RELATED LEGAL PROVISIONS

1. THE TRANSITIONAL CONSTITUTION WILL BE CONTAINED IN AN ORDER IN COUNCIL MADE UNDER AN ACT OF THE UNITED KINGDOM PARLIAMENT. IT WILL COME INTO OPERATION ON A DAY TO BE APPOINTED BY THE BRITISH FOREIGN AND COMMONWEALTH SECRETARY, AND ON THAT DAY SOUTHERN RHODESIA WILL RETURN TO LEGALITY.

THE RESIDENT COMMISSIONER

2. THE TRANSITIONAL CONSTITUTION WILL ESTABLISH THE OFFICE OF RESIDENT COMMISSIONER. THE RESIDENT COMMISSIONER WILL BE THE REPRESENTATIVE OF THE CROWN IN SOUTHERN RHODESIA AND IN HIM WILL BE VESTED RESPONSIBILITY FOR ALL EXECUTIVE AND LEGISLATIVE FUNCTIONS OF THE GOVERNMENT OF SOUTHERN RHODESIA. IN EXERCISING HIS FUNCTIONS, THE RESIDENT COMMISSIONER WILL AT ALL TIMES BE SUBJECT TO

ANY INSTRUCTIONS THAT HE MAY BE GIVEN BY THE UNITED KINGDOM GOVERNMENT EXCEPT SO FAR AS THE CONSTITUTION OTHERWISE EXPRESSLY PROVIDES. THE HOLDER OF THE OFFICE
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OF RESIDENT COMMISSIONER WILL BE APPOINTED AND REMOVABLE BY THE BRITISH GOVERNMENT. THE CONSTITUTION WILL ALSO ESTABLISH THE OFFICE OF DEPUTY RESIDENT COMMISSIONER, THE HOLDER OF WHICH WILL SIMILARLY BE APPOINTED AND REMOVABLE BY THE BRITISH GOVERNMENT. THE DEPUTY RESIDENT COMMISSIONER WILL GENERALLY ASSIST THE RESIDENT COMMISSIONER IN HIS DUTIES AND WILL ORDINARILY ACT AS RESIDENT COMMISSIONER IF THE LATTER HAS TO BE ABSENT FROM SOUTHERN RHODESIA OR IS TEMPORARILY INCAPACITATED. THE CONSTITUTION WILL ALSO PROVIDE FOR THE EMOLUMENTS OF THE RESIDENT COMMISSIONER AND THE DEPUTY RESIDENT COMMISSIONER AND FOR THE RESIDENT COMMISSIONER'S STAFF.

LEGISLATIVE POWERS

3. THERE WILL BE NO SEPARATE LEGISLATIVE ASSEMBLY OR OTHER SIMILAR BODY DURING THE TRANSITION PERIOD AND, IN ITS PLACE, THE RESIDENT COMMISSIONER WILL HIMSELF BE THE LEGISLATURE. HE WILL HAVE FULL POWER TO MAKE LAWS FOR THE PEACE, ORDER AND GOOD GOVERNMENT OF SOUTHERN RHODESIA. THIS POWER WILL BE EXERCISABLE BY ORDINANCE SIGNED BY THE RESIDENT COMMISSIONER AND PUBLISHED IN THE OFFICIAL

GAZETTE. ALL ORDINANCES MADE BY THE RESIDENT COMMISSIONER (AND ALL SUBORDINATE LEGISLATION MADE UNDER THEM OR UNDER ANY EXISTING LAW) WILL BE SUBJECT TO THE PROVISIONS OF ANY APPLICABLE ACT OF THE BRITISH PARLIAMENT OR ANY ORDER IN COUNCIL OR OTHER INSTRUMENT MADE UNDER SUCH AN ACT AND, IN PARTICULAR, WILL BE SUBJECT TO THE PROVISIONS OF THE TRANSITIONAL CONSTITUTION ORDER ITSELF, ESPECIALLY THE PROVISIONS OF THE BILL OF RIGHTS WHICH WILL FORM PART OF THE TRANSITIONAL CONSTITUTION (SEE PARAGRAPH 8 BELOW).

EXECUTIVE POWERS

4. THE TRANSITIONAL CONSTITUTION WILL PROVIDE THAT THE
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EXECUTIVE AUTHORITY OF SOUTHERN RHODESIA WILL BE EXERCISABLE BY THE RESIDENT COMMISSIONER, AS THE REPRESENTATIVE OF THE CROWN, EITHER DIRECTLY OR THROUGH OFFICERS OR AUTHORITIES SUBORDINATE TO HIM. SINCE THERE WILL BE NO MINISTERS DURING THE TRANSITION PERIOD, THE RESIDENT COMMISSIONER WILL EXERCISE ALL POWERS THAT ARE CURRENTLY VESTED BY ANY LAW IN A MINISTER AND HE WILL, EITHER DIRECTLY OR THROUGH OFFICERS SUBORDINATE TO HIM, EXERCISE SUPERVISION AND CONTROL OVER ALL MINISTRIES AND DEPART-

MENTS OF GOVERNMENT. THE CONSTITUTION WILL SPECIFICALLY GIVE HIM POWER TO GIVE BINDING DIRECTIONS TO ALL PUBLIC OFFICERS AND AUTHORITIES.

5. THE RESIDENT COMMISSIONER WILL BE THE COMMANDER-IN-CHIEF OF ALL ARMED FORCES WHICH MAY BE LAWFULLY OPERATING IN SOUTHERN RHODESIA DURING THE TRANSITION PERIOD AND, THROUGH THE COMMISSIONER OF POLICE, HE WILL ALSO HAVE ULTIMATE COMMAND OF THE POLICE FORCES. (REFERENCES IN THIS PARAGRAPH TO ARMED FORCES DO NOT INCLUDE THE UNITED NATIONS ZIMBABWE FORCE.) ALL MEMBERS OF ALL ARMED AND POLICE FORCES WILL BE REQUIRED TO COMPLY WITH THE ORDERS OR DIRECTIONS GIVEN BY THE RESIDENT COMMISSIONER DIRECTLY OR THROUGH THEIR SUPERIOR OFFICERS. THE RESIDENT COMMISSIONER WILL BE EMPOWERED TO REQUIRE ANY MEMBER OF ANY SUCH FORCE TO SWEAR AN OATH OF ALLEGIANCE TO THE CROWN AND AN OATH TO UPHOLD THE CONSTITUTION AND OBEY THE LAWS OF SOUTHERN RHODESIA. ALL POWERS RELATING TO APPOINTMENTS IN, DISCIPLINARY CONTROL OVER, AND REMOVAL FROM OFFICE IN ANY OF THESE FORCES WILL BE VESTED IN THE RESIDENT COMMISSIONER. SUBJECT TO ANY PROVISION THAT HE MAY MAKE, THEY WILL BE EXERCISABLE BY THE LIKE AUTHORITIES AND IN THE LIKE MANNER, AS NEARLY AS MAY BE, AS THEY
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WERE IMMEDIATELY BEFORE THE COMING INTO OPERATION OF THE TRANSITIONAL CONSTITUTION BUT THE EXERCISE BY THOSE AUTHORITIES OF ANY SUCH POWER WILL BE SUBJECT TO ANY GENERAL OR SPECIAL DIRECTION THAT THE RESIDENT COMMISSIONER MAY GIVE.

6. THE RESIDENT COMMISSIONER WILL BE ABLE, IF HE CONSIDERS IT DESIRABLE, TO SET UP ONE OR MORE ADVISORY COUNCILS OR COMMITTEES TO ASSIST HIM IN THE PERFORMANCE OF ANY SPECIFIC FUNCTION OR OF HIS FUNCTIONS GENERALLY. BUT HE WILL BE FREE TO ACT WITHOUT HAVING CONSULTED ANY SUCH BODY OR TO ACT OTHERWISE THAN IN ACCORDANCE WITH ITS ADVICE IF HE DOES CONSULT IT.

BILL OF RIGHTS

7. THE TRANSITIONAL CONSTITUTION WILL CONTAIN A BILL OF RIGHTS (I.E. PROVISIONS GUARANTEEING FUNDAMENTAL HUMAN RIGHTS) ON THE LINES OF THE ONE TO BE INCLUDED IN THE INDEPENDENCE CONSTITUTION BUT ADAPTED TO TAKE ACCOUNT OF THE FACT THAT, DURING THE TRANSITION PERIOD, THE RESIDENT COMMISSIONER WILL TAKE THE PLACE BOTH OF AN ELECTED LEGISLATURE AND OF A MINISTERIAL GOVERNMENT. FOR A MORE DETAILED DESCRIPTION OF THE RIGHTS TO BE GUARANTEED, SEE

PARAGRAPH 5(A) OF ANNEX A.

8. EVERY LAW (WHETHER AN EXISTING LAW THAT IS CONTINUED IN FORCE DURING THE TRANSITION PERIOD OR A LAW MADE BY THE RESIDENT COMMISSIONER) WILL HAVE TO BE READ SUBJECT TO THE BILL OF RIGHTS AND, IF THERE IS ANY CONFLICT, WILL BE INVALID TO THE EXTENT OF THE CONFLICT. THE BILL OF RIGHTS WILL BE JUSTICIABLE, I.E. ANY PERSON WHO ASSERTS THAT HIS RIGHTS UNDER IT HAVE BEEN, ARE BEING OR ARE LIKELY TO BE INFRINGED BY ANY LAW OR BY ANY GOVERNMENT ACTION WILL BE ABLE TO APPLY TO THE HIGH COURT FOR

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THAT QUESTION TO BE DETERMINED AND, WHEN APPROPRIATE, FOR REDRESS.

9. HOWEVER, AS IN THE CASE OF THE BILL OF RIGHTS IN THE INDEPENDENCE CONSTITUTION, THERE ARE TWO NECESSARY QUALIFICATIONS TO THE POSITION AS DESCRIBED ABOVE:

(A) SOME EXISTING LAWS OR ADMINISTRATIVE PRACTICES WILL BE CONTRARY TO THE BILL OF RIGHTS BECAUSE THEY ARE DISCRIMINATORY. IT WILL BE THE INTENTION OF THE TRANSITIONAL ADMINISTRATION TO ABOLISH ALL DISCRIMINATION, WHETHER BY LEGISLATION OR BY ADMINISTRATIVE PRACTICE, AT AS EARLY A DATE AS POSSIBLE. HOWEVER, IT MAY BE THAT SOME EXISTING DISCRIMINATORY LAWS OR ADMINISTRATIVE PRACTICES CANNOT SIMPLY BE INVALIDATED WITHOUT PROVIDING A NEW SYSTEM TO TAKE THEIR PLACE; AND THAT SUCH NEW SYSTEM, OR SYSTEMS, WILL TAKE SOME TIME TO WORK OUT. INDEED, IN SOME CASES IT MAY BE THOUGHT RIGHT THAT THE TASK OF CREATING THE NEW SYSTEM SHOULD FALL TO THE GOVERNMENT OF ZIMBABWE AND NOT BE UNDERTAKEN BY THE TRANSITIONAL ADMINISTRATION. IN THESE LIMITED CASES, THEREFORE, THE TRANSITIONAL ADMINISTRATION (AND SUBSEQUENTLY THE GOVERNMENT OF ZIMBABWE: SEE PARAGRAPH 5(C) OF ANNEX A) WILL BE PERMITTED TO CONTINUE THESE EXISTING LAWS AND PRACTICES, NOTWITHSTANDING THE BILL OF RIGHTS, FOR SUCH TIME AS IT TAKES TO REPLACE THEM BUT IN ANY CASE FOR NO LONGER THAN TWO YEARS FROM THE DATE OF INDEPENDENCE.

(B) THE TRANSITIONAL CONSTITUTION (LIKE THE INDEPENDENCE CONSTITUTION) WILL PERMIT CERTAIN OF THE PROVISIONS OF THE BILL OF RIGHTS TO BE DEROGATED FROM DURING PERIODS OF PUBLIC EMERGENCY. FOR THIS PURPOSE, A PUBLIC EMERGENCY

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WILL BE RECOGNISED AS IN EXISTENCE WHENEVER IT HAS BEEN PROCLAIMED BY THE RESIDENT COMMISSIONER AND UNTIL SUCH TIME AS HE WITHDRAWS THE PROCLAMATION. AS A PRECAUTIONARY

MEASURE, A NUMBER OF THE EMERGENCY POWERS NOW OPERATING IN SOUTHERN RHODESIA WILL NEED TO BE AVAILABLE TO THE RESIDENT COMMISSIONER IMMEDIATELY UPON THE COMMENCEMENT OF THE TRANSITIONAL CONSTITUTION, WHICH WILL THEREFORE DEEM A PROCLAMATION OF EMERGENCY TO BE IN FORCE AS FROM THAT DATE AND UNTIL THE RESIDENT COMMISSIONER HIMSELF OTHERWISE PROVIDES. BUT IT IS THE INTENTION OF THE BRITISH GOVERNMENT THAT THIS PERIOD OF EMERGENCY SHOULD BE BROUGHT TO AN END AS SOON AS IT IS PRUDENT TO DO SO AND THAT, IN ANY EVENT, THE RESIDENT COMMISSIONER SHOULD TAKE VERY EARLY STEPS TO RELEASE EXISTING DETAINEES AND ALSO TO RELEASE THOSE UNDERGOING SENTENCES OF IMPRISONMENT FOR OFFENCES FOR WHICH, IF PROCEEDINGS HAD NOT ALREADY TAKEN PLACE, CRIMINAL LIABILITY WOULD BE EXTINGUISHED BY THE AMNESTY (SEE PARAGRAPH 18(C) BELOW).

JUDICATURE

10. THE TRANSITIONAL CONSTITUTION WILL ESTABLISH A HIGH COURT OF SOUTHERN RHODESIA, STAFFED BY A CHIEF JUSTICE AND OTHER JUDGES AND ORGANISED INTO A GENERAL DIVISION AND AN APPELLATE DIVISION SUBSTANTIALLY AS AT PRESENT. IT WILL ALSO RECOGNISE SUCH SUBORDINATE COURTS AS ARE AT PRESENT CONSTITUTED UNDER EXISTING LAW.

11. THE TRANSITIONAL CONSTITUTION WILL PROVIDE THAT THE JUDGES OF THE HIGH COURT AND THE SUBORDINATE COURTS WILL BE THE PERSONS WHO ARE SERVING IN THOSE RESPECTIVE CAPACITIES IMMEDIATELY BEFORE IT COMES INTO OPERATION. (THE OFFICE OF CHIEF JUSTICE, HOWEVER, WILL BE VACATED BY THE PRESENT INCUMBENT BEFORE THE DATE OF THE RETURN TO LEGALITY AND WILL NOT BE FILLED UNTIL AFTER THAT
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DATE.) ANY NEW JUDGE OF THE HIGH COURT WILL BE APPOINTED BY THE RESIDENT COMMISSIONER BUT A JUDGE OF THE HIGH COURT, ONCE APPOINTED (AND THIS INCLUDES SUCH A JUDGE WHO HAS BEEN CONTINUED IN OFFICE AT THE COMMENCEMENT OF THE TRANSITIONAL CONSTITUTION), MAY NOT BE REMOVED UNTIL HE REACHES RETIRING AGE EXCEPT FOR PROVED MISCONDUCT OR INCAPACITY, ESTABLISHED BY A JUDICIAL TRIBUNAL APPOINTED BY THE RESIDENT COMMISSIONER. NOR CAN HIS TERMS OF SERVICE BE ALTERED TO HIS DISADVANTAGE DURING HIS TENURE OF OFFICE.

12. ALL POWERS RELATING TO THE APPOINTMENT, DISCIPLINARY CONTROL AND REMOVAL FROM OFFICE OF THE SUBORDINATE JUDICIARY AND THE MORE SENIOR STAFF OF THE HIGH COURT OTHER THAN THE JUDGES (E.G. THE REGISTRAR) WILL BE

VESTED IN THE RESIDENT COMMISSIONER. THEIR EXERCISE, SUBJECT TO THE OVERALL CONTROL OF THE RESIDENT COMMISSIONER, BY OTHER PERSONS AND AUTHORITIES IN ACCORDANCE WITH EXISTING LAW WILL BE REGULATED IN THE SAME WAY AS FOR OTHER OFFICES IN THE PUBLIC SERVICE (SEE PARAGRAPH 14 BELOW).

13. DURING THE TRANSITION PERIOD, APPEALS WILL LIE FROM THE HIGH COURT TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL BUT ONLY BY LEAVE OF THE HIGH COURT OR BY SPECIAL LEAVE OF THE JUDICIAL COMMITTEE.

THE PUBLIC SERVICE

14. ALL POWERS CONCERNING APPOINTMENTS TO OFFICES IN THE PUBLIC SERVICE, DISCIPLINARY CONTROL OVER PERSONS HOLDING OR ACTING IN SUCH OFFICES OR THEIR REMOVAL FROM
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OFFICE WILL BE VESTED IN THE RESIDENT COMMISSIONER. SUBJECT TO ANY PROVISION THAT HE MAY MAKE, THEY WILL BE EXERCISABLE BY THE LIKE AUTHORITIES AND IN THE LIKE MANNER, AS NEARLY AS MAY BE, AS THEY WERE IMMEDIATELY BEFORE THE COMING INTO OPERATION OF THE TRANSITIONAL CONSTITUTION BUT THE EXERCISE BY THOSE AUTHORITIES OF ANY SUCH POWER WILL BE SUBJECT TO ANY GENERAL OR SPECIAL DIRECTIONS WHICH THE RESIDENT COMMISSIONER MAY GIVE. THE FOREGOING IS WITHOUT PREJUDICE TO THE SPECIAL PROVISIONS RELATING TO THE JUDGES OF THE HIGH COURT (SEE PARAGRAPH 11 ABOVE).

15. THE TRANSITIONAL CONSTITUTION WILL PROVIDE THAT ALL PERSONS HOLDING OR ACTING IN PUBLIC OFFICES IMMEDIATELY BEFORE THE COMING INTO OPERATION OF THE CONSTITUTION WILL CONTINUE TO HOLD OR ACT IN THE LIKE OFFICES UNDER THE TRANSITIONAL CONSTITUTION. (THERE WILL, HOWEVER, BE A FEW OFFICES, SUCH AS THAT OF SECRETARY TO THE CABINET, WHICH WILL BE VACATED BY THE PRESENT INCUMBENTS BEFORE THE DATE OF THE RETURN TO LEGALITY AND WILL NOT BE FILLED UNTIL AFTER THAT DATE.) THE RESIDENT COMMISSIONER WILL BE EMPOWERED TO REQUIRE ANY PERSON HOLDING OR ACTING IN A PUBLIC OFFICE TO SWEAR AN OATH OF ALLEGIANCE TO THE CROWN AND AN OATH TO UPHOLD THE CONSTITUTION AND OBSERVE THE LAWS OF SOUTHERN RHODESIA.

16. THE PENSIONS OF ALL PUBLIC OFFICERS (INCLUDING PAST OFFICERS) WILL BE GUARANTEED BY THE TRANSITIONAL CONSTITUTION BY:

(I) BEING CHARGED ON THE CONSOLIDATED FUND;

(II) A PROVISION WHICH WILL ENSURE THAT THE PENSIONS OF OFFICERS WHO ARE COMPULSORILY RETIRED TO FACILITATE THE RECONSTRUCTION OF THE PUBLIC SERVICE CAN BE FREELY REMITTED ABROAD; AND

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(III) A PROVISION WHICH WILL PREVENT THE LAW REGULATING A PUBLIC OFFICER'S PENSION FROM BEING ALTERED TO HIS DISADVANTAGE AFTER THE COMMENCEMENT OF HIS SERVICE.

FINANCE

17. THE TRANSITIONAL CONSTITUTION WILL CONTAIN PROVISIONS ADAPTING THE EXISTING PROCEDURE FOR AUTHORISING THE EXPENDITURE OF PUBLIC FUNDS (E.G. ANNUAL APPROPRIATION ACTS).

MISCELLANEOUS PROVISIONS

18. IN ADDITION TO THE ABOVE MATTERS WHICH DIRECTLY RELATE TO THE CONSTITUTIONAL STRUCTURE OF THE GOVERNMENT OF SOUTHERN RHODESIA DURING THE TRANSITION PERIOD, THERE WILL BE A NUMBER OF OTHER MATTERS, NECESSARILY CONSEQUENTIAL UPON OR INCIDENTAL TO THE RESTORATION OF LEGALITY, WHICH WILL HAVE TO BE REGULATED BY THE TRANSITIONAL CONSTITUTION ORDER. THE RELEVANT PROVISIONS WILL INCLUDE THE FOLLOWING:

(A) VALIDATION OF EXISTING LAWS AND PREVIOUS TRANSACTIONS. SO THAT SOUTHERN RHODESIA MAY RETURN TO LEGALITY WITH A COHERENT AND WORKABLE LEGAL AND ADMINISTRATIVE SYSTEM, THERE WILL BE A GENERAL VALIDATION OF ALL LAWS WHICH WERE PURPORTED TO HAVE BEEN MADE DURING THE PERIOD SINCE 11 NOVEMBER 1965. THERE WILL BE AN EXCEPTION FOR SPECIFIED LAWS WHICH WOULD NOT BE COMPATIBLE WITH THE RESTORATION OF LEGALITY, E.G. THOSE RELATING TO MEMBERSHIP OF THE "PARLIAMENT" THAT FUNCTIONED DURING THAT PERIOD. SIMILARLY, TRANSACTIONS WHICH HAVE TAKEN PLACE SINCE 11 NOVEMBER 1965 AND WHICH MIGHT OTHERWISE BE REGARDED AS INVALID MERELY BECAUSE THEY WERE CARRIED OUT IN RELIANCE ON ANY SUCH LAW, OR BECAUSE (OWING TO THE CONSTITUTIONAL SITUATION IN SOUTHERN RHODESIA AT THE TIME) THERE WAS SOME DEFECT IN THE AUTHORITY BY WHICH THEY WERE PERFORMED OR IN THE PROCEDURE EMPLOYED OR SOME OTHER SIMILAR DEFECT, WILL BE DEEMED TO HAVE BEEN VALIDLY PERFORMED.

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NOVEMBER 1965 AND WHICH MIGHT OTHERWISE BE REGARDED AS INVALID MERELY BECAUSE THEY WERE CARRIED OUT IN RELIANCE ON ANY SUCH LAW, OR BECAUSE (OWING TO THE CONSTITUTIONAL SITUATION IN SOUTHERN RHODESIA AT THE TIME) THERE WAS SOME DEFECT IN THE AUTHORITY BY WHICH THEY WERE PERFORMED OR IN THE PROCEDURE EMPLOYED OR SOME OTHER SIMILAR DEFECT, WILL BE DEEMED TO HAVE BEEN VALIDLY PERFORMED.

(B) ADAPTATION OF EXISTING LAWS. A NUMBER OF LAWS WHICH WILL BE IN FORCE ON AND AFTER THE DAY APPOINTED FOR THE COMING INTO OPERATION OF THE TRANSITIONAL CONSTITUTION WILL BE IN TERMS WHICH WILL NOT BE LITERALLY APPLICABLE TO THE NEW CONSTITUTIONAL ARRANGEMENTS. THIS WILL APPLY NOT ONLY TO LAWS MADE SINCE 11 NOVEMBER 1965 WHICH WILL HAVE BEEN VALIDATED AS EXPLAINED ABOVE BUT ALSO TO LAWS ENACTED BY THE COMPETENT LEGAL AUTHORITIES UNDER THE 1961 CONSTITUTION AND, INDEED, EARLIER. FOR EXAMPLE, REFERENCES IN LAWS TO "THE MINISTER" WILL NO LONGER BE APPROPRIATE. THE REFERENCE WILL, DURING THE TRANSITION PERIOD, HAVE TO BE TO "THE RESIDENT COMMISSIONER". THERE WILL THEREFORE BE PROVISION FOR THE

ADAPTATION OF EXISTING LAWS TO MAKE THEM CONFORM WITH THE NEW CONSTITUTIONAL STRUCTURE.

(C) AMNESTY. IN ORDER TO BRING TO A CLOSE THE UNHAPPY CHAPTER OF THE PAST 12 YEARS AND TO OPEN A NEW CHAPTER WHICH WILL BE MARKED, IT IS HOPED, BY A SPIRIT OF RECONCILIATION AND THE DESIRE OF ALL RHODESIANS TO WORK TOGETHER FOR THE CONSTRUCTION OF A PEACEFUL AND PROSPEROUS ZIMBABWE, IT WILL BE NECESSARY TO "WIPE THE SLATE CLEAN" WHEN LEGALITY IS RESTORED AND TO PREVENT PUNITIVE OR RECRIMINATORY ACTION BEING TAKEN THEREAFTER IN RESPECT OF ACTS ARISING OUT OF THE POLITICAL SITUATION WHICH OBTAINED DURING THAT PERIOD. IN PRACTICE IT WILL BE NECESSARY TO EXTINGUISH BOTH CIVIL AND CRIMINAL
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LIABILITY FOR SUCH ACTS. THIS APPLIED TO THE ACTS OF BOTH SIDES, THAT IS, BOTH THOSE COMMITTED IN FURTHERANCE OF THE REBELLION AND THOSE COMMITTED IN RESISTANCE TO IT. THE TRANSITIONAL CONSTITUTION ORDER WILL THEREFORE CONTAIN A PROVISION TO THIS END WHICH WILL PREVENT PROSECUTIONS BEING BROUGHT OR CIVIL ACTIONS BEING PURSUED IN THE COURTS OF SOUTHERN RHODESIA IN RESPECT OF SUCH ACTS. IN ADDITION, IT WILL BE A PRIORITY TASK OF THE RESIDENT COMMISSIONER TO REVIEW THE CASES OF ALL PERSONS UNDERGOING IMPRISONMENT AND TO ORDER THE IMMEDIATE RELEASE OF THOSE SERVING SENTENCES FOR OFFENCES FOR WHICH, IF PROCEEDINGS HAD NOT ALREADY TAKEN PLACE, CRIMINAL LIABILITY WOULD BE EXTINGUISHED BY THIS PROVISION.

(D) RIGHTS AND LIABILITIES OF THE GOVERNMENT OF SOUTHERN RHODESIA. THE TRANSITIONAL CONSTITUTION ORDER WILL MAKE IT CLEAR, FOR THE AVOIDANCE OF DOUBT, THAT THE GOVERNMENT OF SOUTHERN RHODESIA, AS SET UP BY THAT ORDER, IS ENTITLED TO ALL THE RIGHTS, AND IS SUBJECT TO ALL THE OBLIGATIONS, NOW APPERTAINING TO THE GOVERNMENT OF

SOUTHERN RHODESIA AS SET BY THE 1961 CONSTITUTION. FURTHERMORE, AS A COROLLARY OF THE PROVISION EXPLAINED ABOVE FOR THE VALIDATION OF EXISTING LAWS AND OF PAST TRANSACTIONS, IT WILL ALSO BE EXPRESSLY DECLARED THAT THE LAWFUL GOVERNMENT OF SOUTHERN RHODESIA, AS ESTABLISHED BY THE TRANSITIONAL CONSTITUTION, WILL SUCCEED AT THE SAME TIME TO THE RIGHTS AND ASSETS (AND, CORRESPONDINGLY, TO THE OBLIGATIONS) IN MUNICIPAL LAW WHICH WOULD, IMMEDIATELY BEFORE THE COMING INTO OPERATION OF THAT CONSTITUTION, HAVE BEEN RECOGNIZED BY THE COURTS THEN OPERATING IN SOUTHERN RHODESIA AS BELONGING TO "THE
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GOVERNMENT OF THE REPUBLIC OF RHODESIA". CHRISTOPHER

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